

### REMARKS/ARGUMENTS

The official Office Action dated October 19, 2006, has been carefully considered. The Applicants thank the Examiner for the telephone conversation of January 19, 2007 during which the disposition of the claims was clarified. The Applicants thank the Examiner for indicating the allowance of claims 14-19 and 33-38, and for indicating that claims 5-13, 20, 24-32, 39, and 41 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2-20, 22-24 and 26-42 remain in the application. Claims 40 and 42 were amended, and claim 25 was cancelled.

Applicants believe that no new matter has been added by the foregoing amendments, full support therefore being shown in the drawings and specification as filed. All claims remaining in the application are believed to now be in condition for allowance.

Reconsideration and reexamination of the application is respectfully requested in view of the referenced amendments and the following remarks.

### **Rejection Under 35 U.S.C. §103**

Claims 2-4, 22, 23, 40 and 42 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Claywell et al. (U.S. Pat. No. 3,167,183) in view of EP 1,264,570. This rejection is respectfully traversed.

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be some reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure”. *In re Vacek*, 947, F. 2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2142.

With respect to amended claims 40 and 42, the third criteria to establish *prima facie* obviousness is not satisfied since the combined references do not teach or suggest all of the claim limitations. The references of Claywell and EPO ‘570, alone or in combination, do not teach or

suggest an adjustable utensil carrier that is adjustable for pivotal movement relative to the basket between a first position, where a food contact surface of a utensil carried by the utensil carrier is primarily directed toward the spray from one of the water spray assembly and the at least one side sprayer, and a second position, where the food contact surface is directed toward the spray from both the water spray assembly and the at least one side sprayer. For at least this reason, Applicants respectfully submit that independent claims 40 and 42 are allowable over the applied combination of references. Because claims 2-13, 20, 22-24, 26-32, 39 and 41 depend, directly or indirectly, from either claim 40 or claim 42, these claims are also allowable over Claywell et al. in view of EP 1,264,570.

### **CONCLUSION**

All of the stated grounds of rejection have been properly traversed or rendered moot. It is believed that a full and complete response has been made to all of the outstanding rejections, and Applicants therefore respectfully request that this amendment be entered.

No fees or extensions of time are believed to be due in connection with this filing. However, please consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 23-1660.

It is respectfully submitted that the claims remaining in the application are allowable over the prior art of record. Early notification of allowability of all of the claims is respectfully requested.

Respectfully submitted,

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Dated: January 19, 2007

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